

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

GREAT SOUTHLAND LIMITED, :  
: Plaintiff, : Case No. 2:17-CV-00719  
: v. : JUDGE MORRISON  
: LANDASH CORPORATIONS, et al. : MAGISTRATE JUDGE JOLSON  
: Defendant. :

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**PLAINTIFF GREAT SOUTHLAND LIMITED'S MOTION FOR  
EXTENSION OF TIME TO RESPOND TO XPO'S MOTION TO  
EXCLUDE EXPERT WITNESS DAVID JACOBY**

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Plaintiff, Great Southland Limited (“GSL”), by and through undersigned counsel, hereby moves this Court for an Extension of Time to respond to Defendants XPO Logistics, Inc. and XPO Global Forwarding, Inc.’s (collectively “XPO”) Motion to Exclude Expert Witness David Jacoby. Undersigned counsel has contacted XPO’s counsel for their consent to a one (1) week extension of time. However, XPO believes that an additional one (1) week to respond to this substantive Motion is not appropriate and opposes same. The reasons in support of this Motion are set forth in the attached memorandum.

Respectfully submitted,

CARLILE PATCHEN & MURPHY LLP

/s/ Matthew S. Brown

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*Counsel for Plaintiff Great Southland Limited*

## INTRODUCTION

On August 6, 2021, this Court issued a Scheduling Order setting forth that Motions in Limine and Pretrial Motions are due on October 4, 2021. D.E. # 210. On September 2, 2021, the Court continued the deadline until December 2, 2021. D.E. # 218. The Order further states that responses to such Motions would be due December 9, 2021. D.E. # 218. On December 2, 2021, XPO filed five (5) Motions – four (4) were entitled Motions in Limine and one (1) was titled a Motion to Exclude Expert Testimony of David Jacoby.

While Plaintiff will file responses to the four (4) Motions in Limine by the December 9, 2021, deadline, counsel has requested a one (1) week extension to respond to the Motion to Exclude the Expert Testimony of David Jacoby. XPO, however, opposes such request for an extension as being inappropriate given the Court's case schedule noted above.

The Court's Case Schedule was prepared before it was evident that XPO would be filing five (5) substantive Motions, which would afford Plaintiff a mere seven (7) days to respond to all five (5) Motions. Several of the Motions are dispositive motions that should have been filed in accordance with the Court's case schedule for dispositive motions. Indeed, the Motion to Exclude the Testimony of an Expert Witness was filed in conjunction with XPO's dispositive motion in the companion case of *Abington Emerson Capital v. Adkins, et al.*, S.D. Ohio Case No. 2:17-cv-00143. See, D.E. # 330, 331, 332. Now, however, XPO files the equivalent of dispositive motions on a Motion in Limine schedule affording Plaintiff seven (7) days to respond (to five (5) separate motions).

Not only does the case schedule afford only seven (7) days to respond to five (5) motions, the deadline passes when undersigned counsel will be out of the office. Counsel will be in New York from December 7, 2021, through December 11, 2021. While it is expected that responses to the four (4) Motions in Limine can be filed within the seven (7) day timeframe. The fifth substantive Motion is not something that can be substantively rebutted within such

timeframe. As there is no Reply Brief due from XPO on any of these Motions, there is no prejudice to XPO for Plaintiff to have one (1) additional week to respond to the Motion to Exclude the Expert Testimony of David Jacoby.

For the foregoing reasons, Plaintiff Great Southland Limited respectfully requests a one (1) week extension of time to respond to XPO's Motion to Exclude the Expert Testimony of David Jacoby.

Respectfully submitted,

CARLILE PATCHEN & MURPHY LLP

/s/ Matthew S. Brown

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of December 2021, a true and correct copy of the foregoing was filed and served electronically via the Court's CM/ECF System upon those who are registered to receive electronic notice. I have also served the following parties via U.S. Mail at the addresses below:

Jason E. Adkins  
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Landash Corporation  
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